

13 December 2017

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**Director, Employment Policy and  
Systems**

GPO Box 39  
Sydney, NSW 201

Submitted via email online portal

Dear Director,

**Submission in response to the proposed amendment to the definition of 'Bulky Goods Premises'**

This submission has been prepared by Ethos Urban on behalf of Arkadia Property Services (Arkadia) in response to the proposed amendments to the definition of 'Bulky Goods Premises' prepared by the NSW Department of Planning and Environment. As a member of the Large Format Retail Association (LFRA) we support the association's position on the proposed amendment to the definition of 'Bulky Goods Premises'.

Within this submission we take the opportunity to reiterate the key messages and recommendations of the LFRA to the Department of Planning and Environment to ensure that NSW has the most competitive and dynamic retail industry in Australia.

Arkadia is a Private Real Estate Investment Organisation that owns and manages 3 hotels together with 16 retail centres along the east coast of Australia which include large format retail centres. The portfolio remains domestically based from Melbourne to the south right up to Rockhampton in the north with assets valued over \$800 million.

Within NSW we manage and own four large format centres which include:

- Alexandria Harvey Norman Clearance Centre;
- Alexandria Homemaker Centre;
- Blacktown Megacentre; and
- The Zone Caringbah.

We are actively seeking opportunities to grow business in NSW and support the State's ongoing economic development.

The proposed amendment to the *'Bulky Goods Premises'* definition within the *'Standard Instrument Local Environmental Plan (LEP)'* is welcomed by Arkadia, and is considered a step in the right direction. However, we believe that this minor amendment to the *'Standard Local Instrument LEP'* does not go far enough. Along with the LFRA we fail to understand that if Victoria, South Australia and Western Australia have all moved towards a definition/s for the Large Format Retail sector that are similar, why is it that the NSW definition, even if it is amended as proposed, is not in line with definitions in other States. If the proposed amended definition is to be implemented, we strongly believe it should only be a starting point for significant retail planning policy amendments and further amendments to the *'Standard Instrument LEP'*.

We recommend and support the LFRA's proposed amendment to the bulky goods definition is enacted alongside the following additional planning policy reforms:

- **Introduce a specific product-based land use definition for *'Large Format Retail Premises'* that is in-line with the comparable definitions for *'Restricted Retail Premises'* within Victoria; *'Bulky Goods Showroom'* in Western Australia and *'Bulky Goods Outlet or Retail Showroom'* in South Australia; and**
- **Expand the number of zones where *'Bulky Goods Premises'* and *'Large Format Retail Premises'* uses are permitted, to enable the sector's floorspace demand to be met both now and into the future.**

Further discussion on each of these two recommendations is outline below.

## **Background and Industry Challenges**

More broadly, the Large Format Retail Sector within NSW currently provides over 6.6 million square metres (m<sup>2</sup>) of floorspace and approximately 142,700 full time equivalent (FTE) direct and in-direct jobs. It is also responsible for approximately 40% of retail floorspace demand<sup>1</sup> within the Sydney Metropolitan Area and by 2025 is forecast to require 2.74 million m<sup>2</sup> of additional Large Format Retail floorspace which is the equivalent of approximately 20 additional homemaker centres. The Large Format Retail sector is therefore forecast to grow, but the challenges which lead directly from the current planning and zoning legislation within NSW simply stifle and stagnate investment in this sector and limits the ability of Large Format Retailers to be able to grow and evolve their business models to provide greater consumer choice and experiential benefits.

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<sup>1</sup> Sydney Retail Demand and Supply Consultancy – Stage 1 Report, prepared by Deep End Services, May 2016

These large format retailers are typically attracted to homemaker centres as they display the following operational and physical characteristics, which distinguish them from standard retail premises:

- Large floor plate requirements to display and store goods
- Direct, at-grade access to customers' vehicles for loading; and
- Good access and exposure to arterial roads to attract a broader customer base.

The Large Format Retail industry in Australia is facing difficulties as a direct result of planning and zoning legislation across Australia, particularly in NSW. The Large Format Retail sector principally suffers from:

- A lack of clarity in determining whether its retailers 'fit' within the current available land use definitions; and
- A lack of sufficient appropriately zoned, sized and configured land to support new development.

Accordingly, new Large Format Retail developments in NSW currently face a high risk, uncertain and lengthy planning pathway, which often involves the rezoning of land through a planning proposal.

### **Introduce a Specific Product-Based Land Use Definition for 'Large Format Retail Premises'**

The Large Format Retail sector consists of retail businesses predominantly involved in the sale, hire or display of goods such as:

- automotive parts and accessories;
- baby and children's goods, children's play equipment and accessories;
- camping, outdoor and recreation goods;
- household appliances, household electrical goods and home entertainment goods;
- electrical light fittings;
- office equipment and supplies;
- sporting, cycling, leisure fitness goods and accessories;
- animal and pet supplies;
- party supplies; floor and window coverings;
- swimming pools and supplies;
- homeware, furnishings, bedding and manchester;
- hardware and building supplies; and
- musical instruments and accessories.

The concept of a *'Large Format Retailer'* is not recognised as an individual form of development under the *'Standard Instrument LEP'* definitions. Large Format Retailers are therefore required to *'fit'* with the definitions of *'Bulky Goods Premises'*, *'Garden Centres'* or *'Hardware and Building Supplies'* or be treated as *'Shops'*.

Arkadia supports the LFRA' position that *'Large Format Retail Premises'* should not be included under the *'shop'* definition, as:

- they share many structural and operational characteristics with *'Bulky Goods Premises'* and *'Hardware and Timber Supplies'* premises;
- there is not sufficient land available or suitable in traditional centres (i.e. Zones B2-4 and B8 which permit *'shops'*) to accommodate the necessary large floorplates; and
- the provision of Large Format Retail operators within traditional centres are likely to create conflict in the context of the urban design of those centres.

Furthermore, inconsistency amongst NSW Councils in how they define some Large Format Retailers provides significant uncertainty for those particular operators and landowners seeking to secure those operators as tenants as there is no *'deemed to comply list'* of products or any practice note to assist Councils in interpreting the existing *'Bulky Goods Premises'*, *'Hardware and Building Supplies'* and *'Garden Centre'* definitions.

For example, there are instances where a Council has taken a view that a certain retailer, which has consistently been recognised as a *'Bulky Goods Premises'* use in most NSW council areas, is not considered to be a *'Bulky Goods Premises'* by that particular Council.

The inconsistency and lack of clear and consistent application of the existing *'Bulky Goods Premises'*, definition is also problematic for new entrants into the Large Format Retail market who are being required to demonstrate that their retail business model falls within the *'Bulky Goods Premises'* definition. In many cases, they have no certainty as to whether their type of retail premises will be accepted as *'Bulky Goods Premises'* consistently across all NSW Council's which creates significant risk for new entrants when purchasing and/or leasing sites for new stores in NSW.

Furthermore, some Large Format Retailers are required to undertake lengthy and costly rezoning applications, as they do not readily *'fit'* within the *'Bulky Goods Premises'* definition. This also significantly restricts the ability of those retailers to find suitable sites in which to invest. This may apply to other new entrants, if *'Large Format Retail premises'* as a form of development in its own right is not clearly defined within the *'Standard Instrument LEP'*. The adverse consequence of this uncertainty is discouraging investment in NSW.

## Recommendation 1

The purpose of the 'Standard Instrument LEP' is to provide a consistent approach to land use planning across NSW. Therefore, it is essential that a definition for 'Large Format Retail Premises' be introduced into the 'Standard Instrument LEP'.

Introduced in January 2012, the Victorian State Government implemented a broad product based definition for '*Restricted Retail Premises*'. The Victorian definition for '*Restricted Retail Premises*' is:

*"...Land use to sell or hire:*

- Automotive parts and accessories*
- Camping, outdoor and recreation goods*
- Electric light fittings*
- Animal supplies including equestrian and pet goods*
- Floor and window coverings*
- Furniture, bedding, furnishings, fabric, manchester and homewares*
- Household appliances, household electrical goods and home entertainment goods*
- Party supplies*
- Swimming pools*
- Office equipment and supplies*
- Baby and children's goods, children's play equipment and accessories*
- Sporting, cycling, leisure, fitness goods and accessories*

*Or,*

- Goods and accessories which:*
- Require a large area for handling, display and/ or storage of goods; or*
- Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

*It does not include the sale of food, clothing and footwear unless their sale is ancillary to the primary use..."*

The Victorian definition (along with other similar definitions in South Australia and Western Australia) provides a list of product categories and in doing so provides clarity, consistency and certainty for Large Format Retailers. The Victorian definition acknowledges that some types of products may not be captured under the standard list, but may still be bulky enough to require a large area for handling, storage and display or require direct customer loading.

In this way, it allows for innovation and evolution in the Large Format Retail sector to encompass retailing that may not yet have been envisaged by policy makers, but may still involve the sale of Large Format goods.

The Victorian definition has been in operation for more than five (5) years and can reasonably be acknowledged as having stood the test of time, and not given rise to any adverse court findings. Furthermore, the land use definition change along with concurrent zoning reforms in Victoria, is considered to have given Victoria a significant competitive advantage over NSW and encouraged far greater investment in new Large Format Retail premises when compared to NSW.

For these reasons, Arkadia supports the LFRA's request that the DP&E adopt the same or similar wording for the new '*large format retail premises*' definition.

### **Expand the scope of the 'Bulky Goods Premises'**

We support the LFRA's position that the DP&E should expand the number of zones that make 'Bulky Goods Premises' mandatory permitted uses and should the DP&E also include a new 'Large Format Retail Premises' definition within the 'Standard Instrument LEP', Arkadia supports the LFRA's argument that it is appropriate for '*Large Format Retail Premises*' to be permitted in the same zones as '*Bulky Goods Premises*'.

Arkadia acknowledge the DP&E adopted amendments in April 2016 to make '*Hardware and Building Supplies*' and '*Garden Centres*' mandatory permitted uses in the '*B7 Business Park*', '*IN1 General Industrial*' and '*IN2 Light Industrial*' zones in order "...to provide greater consistency to local planning in NSW and greater certainty to businesses...".

The permissibility of the Large Format Retail sector across Metropolitan Sydney is highly inconsistent.

It is clear that the provision of sufficient, appropriately zoned land to accommodate Large Format Retail uses has not been consistently considered in the preparation of local planning instruments, and is abundantly clear within the recently released key strategic planning '*vision*' documents – the draft '*Greater Sydney Region Plan*' and draft '*District Plans*' that strategic planning for the Large Format Retail sector it has not been considered at all and actively ignored.

The inclusion of 'Bulky Goods Premises' and 'Large Format Retail Premises' uses as mandatory permitted land uses in a greater number of land use zones will immediately make additional land available for the Large Format Retail sector and address the current, severe shortage of appropriately zoned and located land.

The DP&E has already made 'Hardware and Building Supplies', and 'Garden Centres' mandatory permitted uses in the 'B7', 'IN1' and 'IN2' zones and the

REAC report recommends that "...planning should broaden the scope for accommodating large retail formats in the B5, B6 and B7 zones and work with councils to undertake a strategic exercise to review industrial/employment land where more of these zones might be applied...".

## Recommendation 2

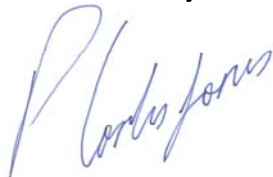
We support the LFRA's commendation that 'Bulky Goods Premises' and 'Large Format Retail Premises' uses are permitted beyond the 'B5 zone' and be included as mandatory permitted uses in the 'Standard Instrument LEP' within the 'B6 – Enterprise Corridor' and 'B7 – Business Park' zones' for the following reasons:

- '*Bulky Goods Premises*' and '*Large Format Retail Premises*' have clear synergies with the structural and operation requirements of 'Hardware and Building Supplies' and 'Garden Centre' uses which are mandatory permitted uses within the 'B6', 'B7' zones';
- '*Bulky Goods Premises*' and '*Large Format Retail Premises*' are consistent with the zone objectives for each of the 'B6', 'B7'-zones';
- The widening of the range of zones where '*Bulky Goods Premises*' and '*Large Format Retail Premises*' are permissible will provide greater opportunity for emerging Large Format Retailers, thus providing greater certainty for investment in NSW; and
- the expansion of the number of zones where '*Bulky Goods Premises*' and '*Large Format Retail Premises*' will address the current and severe shortage of appropriately zoned and located land to meet the needs of emerging Large Format Retailers, that otherwise will continue to look to other states within Australia to focus their investment.

## Conclusion

We thank you for the opportunity to provide a submission to the proposed amendment to the definition of Bulky Goods Premises contained within the Standard Instrument LEP. Arkadia would welcome any further opportunities to work collaboratively with the LFRA and Department in contributing to the refinement of the definition.

Yours sincerely,



**Peter Cortis-Jones**

Head of Property

Arkadia Property Services